

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**Aristide Lex,
Plaintiff**

v.

**RYAN DENVER and LEE
ROSENTHAL
Defendants**

Civil Action No.:

And

Judge:

**RYAN DENVER
Third-Party Plaintiff**

Magistrate Judge:

v.

**UNITED STATES OF AMERICA
Third-Party Defendant**

**Re: Docket No.: 2484CV00931
Suffolk County
Superior Court
Commonwealth of Massachusetts**

**NOTICE OF REMOVAL OF CIVIL ACTION
FROM SUFFOLK, ss, SUPERIOR COURT**

The United States of America, pursuant to 28 U.S.C. §§1346 (b) and 1442(a) *et seq.*, respectfully files the Notice of Removal from Suffolk, ss, Superior Court, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts. The United States of America, in support of this Notice of Removal, states as follows¹:

¹ The United States of America, the third-party defendant, by filing this Notice, reserves all rights and waives none, including the right to challenge the complaint on any grounds.

I. Background

1.

Aristide Lex, as Plaintiff, commenced the proceedings captioned: *Aristide Lex, Plaintiff v. Ryan Denver, Defendant*, entitled: *Complaint* on April 8, 2024, and bearing the civil action number: 2484CV00931, in the Suffolk ss, Superior Court, Commonwealth of Massachusetts. Lex subsequently filed a *First Amended Complaint* on May 29, 2024, that named Lee Rosenthal as a Defendant. True and correct copies of the Complaint and First Amended Complaint are attached to this Notice as **Exhibits A and**

B.

II. Allegations

2.

Lex, the Plaintiff, alleges that he suffered personal injuries as the result of an allision between the vessel “Make It Go Away,” owned and operated by Denver, and a navigational aid in Boston Harbor, at about 3:00 A.M. on July 17, 2021.

4.

Denver, the Defendant and Third-Party Plaintiff, alleges that the United States, the Third-Party Defendant, established, owned, maintained, and operated an aid to navigation located in Boston Harbor.

3.

Denver alleges that the United States negligently established, owned, maintained and operated the navigational aid, which caused him to allide with it while operating his recreational pleasure craft at 0245 on the morning of Sunday, July 17, 2021, that resulted

in injuries to himself and some of his passengers, and in the death of one of his passengers. A copy of the Third-Party Complaint is attached to this Notice as **Exhibit C**.

III. Grounds for Removal

4.

This action is removable pursuant to 28 U.S.C. §1442 (a)(1), the federal officers and agencies removal statute, which authorizes “[t]he United States or any agency thereof or any officer (any person acting under that officer) of the United States or any agency thereof,” to remove a civil action “that is commenced in a State court and that is against or directed to” that officer or agency.²

5.

The United States is named as the Third-Party Defendant in the state court proceedings.

IV. Compliance With Removal Procedure

6.

The United States District Court for the District of Massachusetts embraces the location where the state court action is pending: Suffolk, ss, Superior Court Department, Commonwealth of Massachusetts. *See* 28 U.S.C. §1442 (a).

7.

This Notice of Removal is signed in accordance with Fed. R. Civ. P. 11. *See* 28 U.S.C. §1446 (a).

8.

² The Federal Courts Improvement Act of 1996, 110 Stat. 3850, amended 28 U.S.C. §1442, was intended “to explicitly permit removal by the United States or by a federal agency itself, in addition to removal by an officer of an agency.” 14C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* §3726 (Rev. 4th ed. 2021).

Copies of all process, pleadings, and orders allegedly served on the United States with respect to this civil action are attached to this Notice as **Exhibits A** pursuant to 28 U.S.C. §1446 (a).

9.

A copy of this Notice of Removal, in accordance with 28 U.S.C. §1446 (d), will be filed with the Clerk of Court, Suffolk, ss, Superior Court Department, and written notice of filing of this Notice of Removal will be provided to the Plaintiff and Third-Party Plaintiff.

10.

Counsel for the United States, in accordance with Local Civil Rule 81.1(a), will file certified or attested copies of all records and proceedings in the state court action and will also file certified or attested copy of all docket entries in the state court action within twenty-eight (28) days of filing this Notice of Removal.

Considering the foregoing, the United States of America, the Third-Party Defendant in the state court proceeding, hereby removes the action now pending in the Suffolk, ss, Superior Court Department, Commonwealth of Massachusetts, bearing Civil Action No.: 2484CV00931, to the United States District Court for the District of Massachusetts, and requests that this Court accept this Notice of Removal for filing in accordance with the provisions of 28 U.S.C. §1442 (a).

April 27, 2025

Respectfully submitted,

YAAKOV M. ROTH
Acting Assistant Attorney General,
Civil Division
U.S. Department of Justice

LEAH B. FOLEY
United States Attorney
District of Massachusetts

JOSEPH
JARREAU

Digitally signed by
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Date: 2025.04.25
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Attorneys for the United States of America

LOCAL RULE 7.1 CERTIFICATION

I, J. Steven Jarreau, Trial Attorney, United States Department of Justice, in accordance with L.R. 7.1(a)(2), certify that I conferred with counsel for Astride Lex, the Plaintiff, counsel for Ryan Denver, the Defendant and Third-Party Plaintiff, and counsel for Lee Rosenthal, the Defendant, in advance of filing this Motion.

s / J. Steven Jarreau
J. Steven Jarreau, Trial Attorney
United States Department of Justice

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF REMOVAL OF CIVIL ACTION FROM SUFFOLK, ss, SUPERIOR COURT DEPARTMENT was electronically transmitted on April 27, 2025, to the following CM/ECF registrants:

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s/ J. Steven Jarreau
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